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**BEFORE THE ARIZONA CORPORATION COMMISSION****COMMISSIONERS**

Arizona Corporation Commission

**DOCKETED**

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

MAR 23 2006

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF  
CORONADO UTILITIES, INC. FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE WASTEWATER  
SERVICE IN PINAL COUNTY, ARIZONA.

DOCKET NO. SW-04305A-05-0086

IN THE MATTER OF THE APPLICATION OF  
CORONADO UTILITIES, INC. FOR AUTHORITY  
TO ISSUE SHORT AND LONG-TERM DEBT IN  
CONNECTION WITH THE ACQUISITION OF  
THE WASTEWATER UTILITY PLANT OF BHP  
COPPER, INC. AND CONSTRUCTING  
IMPROVEMENTS THERETO.

DOCKET NO. SW-04305A-05-0087

DECISION NO. 68608**OPINION AND ORDER**

DATES OF HEARING:

June 29, 2005, September 19, 2005 and  
January 27, 2006

PLACE OF HEARING:

Tucson, Arizona

ADMINISTRATIVE LAW JUDGE:

Jane L. Rodda

APPEARANCES:

Mr. Jay Shapiro, FENNEMORE CRAIG,  
on behalf of Coronado Utilities, Inc.; andMr. David Ronald and Mr. Jason  
Gellman, Staff Attorneys, Legal  
Division, on behalf of the Utilities  
Division of the Arizona Corporation  
Commission.**BY THE COMMISSION:**

On February 10, 2005, Coronado Utilities, Inc. ("Coronado" or "Company") filed with the Arizona Corporation Commission ("Commission") an Application for an a new Certificate of Convenience and Necessity ("CC&N" or "Certificate") to provide wastewater utility service in the unincorporated community of San Manuel, in Pinal County. Currently, BHP Copper ("BHP") is providing sewer service to San Manuel incidental to the operation of its mine in the area. BHP is in

1 the process of shutting down its mining operations in San Manuel. Coronado plans to purchase the  
2 existing wastewater treatment facility from BHP, and operate it until it can install a new wastewater  
3 treatment facility. To date, the Commission has not regulated BHP as a public service corporation,  
4 consequently, Coronado's application is for a new CC&N.

5 On the same date, February 10, 2005, Coronado filed an Application for authority to issue a  
6 combination of short and long-term debt instruments totaling not more than \$3,300,000, the proceeds  
7 of which are intended to finance the acquisition of the wastewater infrastructure.

#### 8 Procedural Background

9 On February 11, 2005, Coronado filed a Motion to Consolidate the two applications.

10 On February, 23, 2005, Commission Utility Division Staff ("Staff") filed a Response to the  
11 Motion, indicating Staff had no objection to consolidating the two applications.

12 On March 15, 2005, Staff docketed a letter indicating that the CC&N Application met the  
13 sufficiency requirements of the Arizona Administrative Code.

14 By Procedural Orders dated March 16, 2005, and March 23, 2005, the matters were  
15 consolidated, procedural guidelines established, and a hearing set for June 29, 2005. The deadlines  
16 for filing the Staff Report and objections or comments thereon, were extended pursuant to Procedural  
17 Order dated May 3, 2005.

18 On May 12, 2005, Coronado mailed a copy of the required notice of the hearing to all  
19 customers in San Manuel. The Company caused the notice to be published in the *San Manuel Miner*  
20 on April 27, 2005.

21 On May 27, 2005, Staff filed a Staff Report, recommending approval of the application  
22 subject to conditions.

23 On June 13, 2005, Coronado filed a Response to the Staff Report, primarily objecting to  
24 Staff's recommended capital structure.

25 On June 21, 2005, Staff filed an Addendum to the Staff Report, revising its recommended  
26 rates and charges.

27 The hearing convened as scheduled on June 29, 2005, before a duly authorized Administrative  
28 Law Judge. Only two customers gave public comment, but were very concerned about the effect of

1 the proposed new plant on the residents of San Manuel. Mr. Jason Williamson, one of Coronado's  
2 owners, testified for the Company, and Ms. Linda Jaress, Mr. Dennis Rogers and Ms. Crystal Brown  
3 testified for Staff. At the end of the hearing, Staff agreed to file a revised rate schedule.

4 On July 6, 2005, Staff filed a Request to Re-open the hearing in order to address new  
5 information that had come to Staff's attention after the June 29, 2005 hearing. After the hearing Staff  
6 learned about a criminal sentencing proceeding involving Santec Corporation ("Santec"), the  
7 manufacturer of the wastewater treatment plant that Coronado expected to install. Staff believed the  
8 outcome of the Santec sentencing could affect Staff's recommendations. In addition to being able to  
9 incorporate the new information, Staff felt that a re-opened hearing would allow it to present its  
10 revised rate design. By Procedural Order dated July 7, 2005, the hearing was re-opened and set for  
11 July 22, 2005. Staff was ordered to file a legal analysis of whether BHP, the entity that is currently  
12 providing wastewater service in the affected area, is, or could be, a public service corporation. The  
13 July 7, 2005, Procedural Order suspended the time clock.

14 On July 11, 2005, Staff filed a Request to Reset the July 22, 2005, hearing date because the  
15 sentencing in the Santec case had been continued until August 11, 2005. Staff continued to believe  
16 that the results of that hearing could affect its recommendations in this matter, and requested that the  
17 re-opened hearing be re-set to no earlier than two weeks following the sentencing hearing. Staff also  
18 requested that Coronado be required to re-notice the re-opened hearing and that the Company provide  
19 a witness from BHP who could provide information about customer complaints<sup>1</sup> and background  
20 information that would be helpful in determining whether BHP is a public service corporation.

21 By Procedural Order dated July 12, 2005, a Procedural Conference convened on July 22,  
22 2005. During the Procedural Conference, Staff and Coronado agreed that publication would be an  
23 effective and cost effective means of notifying the San Manuel customers of the re-opened hearing.  
24 Coronado objected to Staff's suggestion that it be required to arrange for a witness from BHP, but  
25 that it understood that BHP had volunteered to make a witness available at the hearing. Coronado  
26

27  
28 <sup>1</sup> After the June 29, 2005 hearing, the Commission received a large number of letters from San Manuel customers protesting BHP's transfer of its wastewater treatment facilities.

1 also objected to Staff's suggestion that it be required to file a legal analysis on the status on BHP as a  
2 public service corporation, as Coronado did not think the question relevant to its application.

3 By Procedural Order dated August 2, 2005, the Administrative Law Judge ordered Coronado  
4 to have notice of the re-opened proceeding published in the local newspaper and to post notice of the  
5 re-opened hearing in at least three public locations within its proposed service area. In addition, the  
6 Administrative Law Judge provided a copy of the Procedural Order to the local newspaper. The  
7 August 2, 2005, Procedural Order required Coronado to provide a legal analysis of the status of BHP  
8 as a public service corporation and agreed that arranging for the witness from BHP should be Staff's  
9 responsibility.

10 Because of the great interest in the local community in this matter, as a courtesy, the  
11 Administrative Law Judge issued a Procedural Order dated August 18, 2005, that sent copies of  
12 pleadings to the San Manuel Library and ordered the parties to provide copies of any future pleadings  
13 to the library as well.

14 On August 31, 2005, Staff filed its Memorandum concerning BHP's status as a public service  
15 corporation. In Staff's opinion BHP satisfies a great number of the criteria used to determine whether  
16 a business entity is a public service corporation.

17 On the same date, Coronado filed its legal analysis of BHP's status as a public service  
18 corporation, including an affidavit of Gerald Brunskill, BHP's Manager of Closure Operations. In  
19 Coronado's opinion, BHP is not a public service corporation because it has never engaged in the  
20 sewage business "for profit."

21 Also on August 31, 2005, Staff filed an Amended Staff Report which continued to  
22 recommend approval of the CC&N, but recommended phased-in rates. Staff's revised  
23 recommendations included a higher debt-to-equity ratio than Staff had originally advocated, but also  
24 included a recommendation that that Coronado retain 75 percent of its earnings until the capital  
25 structure contains at least 40 percent equity.

26 On September 13, 2005, Coronado filed Comments on the Amended Staff Report, objecting  
27 to the recommendation that the Company retain 75 percent of its earnings until equity reaches 40  
28 percent. Coronado did not object to Staff's recommended conditions concerning training and safety.

1 The re-opened hearing convened as scheduled on September 19, 2005.

2 At the commencement of the re-opened hearing 15 residents of San Manuel gave public  
3 comment. In addition, between the June 29, 2005 hearing and the re-opened hearing, the  
4 Commission received numerous written comments from residents opposed to the application. The  
5 residents of San Manuel are extremely concerned about the increased costs to them resulting from the  
6 construction of a new wastewater treatment plant. They believe that BHP has the obligation to  
7 continue to provide wastewater service to them at a much lower rate than is being proposed in the  
8 current application.

9 On November 18, 2005, the Hearing Division issued a Recommended Opinion and Order  
10 ("ROO") that recommended approval of the Application, and recommended rates different than those  
11 proposed by Coronado and Staff at the September 19, 2005 hearing. The Commission heard the  
12 matter at its December 6, 2005 Open Meeting. At that time, the Commissioners determined that they  
13 required additional information concerning the event that led to the Santec plea agreement and  
14 whether the anticipated rate shock could be further mitigated. The Commissioners directed the  
15 Hearing Division to conduct additional proceedings.

16 By Procedural Order dated December 19, 2005, another hearing was set to commence on  
17 January 27, 2006. Coronado filed additional testimony on December 28, 2005. On January 12, 2006,  
18 Staff filed documents related to the criminal investigation and plea agreement of Santec. Staff filed  
19 its Second Amended Staff Report on January 18, 2006. On January 24, 2006, Coronado filed  
20 rebuttal testimony.

21 Pursuant to the December 19, 2005 Procedural Order, Coronado had notice of the re-opened  
22 hearing published in the *San Manuel Miner* on December 28, 2005 and Coronado posted notice of the  
23 re-opened hearing on January 3, 2006.

24 The re-opened hearing convened as scheduled on January 27, 2006. One member of the  
25 public provided comment. Jason Williamson and John Clingman testified for Coronado and Linda  
26 Jarress testified for Staff.

## The Parties

Coronado is an Arizona corporation formed August 18, 2004, for the purpose of owning and operating a wastewater utility serving the community of San Manuel, in Pinal County.

Currently, BHP provides wastewater services to the San Manuel community. Either BHP, or its predecessor in interest, has provided such service to the community in connection with its operation of the San Manuel Mine. Magma Copper Co., a predecessor to BHP, began developing the San Manuel Mine in 1948.<sup>2</sup> Ex S-4, Brunskill Affidavit. In 1954, as part of its expansion of its mining operations, BHP constructed the Town adjacent to its ore processing plant. The Town was constructed to provide housing for mine workers and service providers that directly supported mining operations. According to BHP, its ore processing plant consisted of a copper concentrator, copper smelter, three sulfuric acid plants, an electrolytic copper refinery and a continuous cast copper rod plant, which were supported by a powerhouse, an oxygen plant, sulfuric acid storage and loading facility, offices, maintenance shops, warehouses, a railroad and a Wastewater Treatment Plant. BHP states the Wastewater Treatment Plant was also used to serve the Town. The Town residences and associated buildings were originally owned and managed by the San Manuel Townsite Company, a subsidiary of BHP, and leased to company employees or those service employees who directly supported the mining operations.

BHP states that it did not originally charge residents separately for sewage disposal, but in the 1970's and early 1980's, BHP charged a monthly fee of \$11- \$15 for waste disposal which included garbage and bulk trash pick-up as well as sewer service. BHP claims the Townsite Company lost money and was supported by BHP. In 1962, BHP dissolved the Township Company and took over operations directly. Beginning in the 1960's, BHP began selling housing, on a limited basis, to its employees and service providers who directly supported mining operations. The bulk of the company-owned housing was sold off in the late 1980's and early 1990's. In 1988, a private disposal service took over garbage and bulk trash disposal service. BHP reduced the waste disposal charge to \$48 per year. The \$48 dollar fee for sewer service remains in effect to date.

<sup>2</sup> Hereinafter BHP and any of its predecessors will be referred to as BHP.

1 BHP suspended underground mining at San Manuel in June 1999, and announced in January  
2 2002, that it would be closing the mine. On October 23, 2003, BHP announced that it would also  
3 permanently close the processing plant. BHP plans to complete closure of the mine and plant by the  
4 end of 2007.

5 On November 1, 2004, BHP and Coronado entered into a purchase agreement for the  
6 wastewater collection and treatment facilities. At the same time, Pivotal Utility Management, L.L.C.  
7 ("Pivotal Management"), an affiliate of Coronado, entered into an Operation and Maintenance  
8 Agreement with BHP to operate and manage the current wastewater treatment plant pending  
9 construction of a new treatment plant that will eventually serve existing and future customers. The  
10 purchase price under the Purchase Agreement is \$325,000, but BHP will provide a credit of \$249,999  
11 to Coronado for its design, permitting and construction of a reclaimed water pipeline to transfer  
12 effluent to the golf course owned by BHP. The Purchase Agreement requires Coronado to seek a  
13 CC&N from the Commission, and to obtain an Aquifer Protection Permit ("APP") from the Arizona  
14 Department of Environmental Quality ("ADEQ") for the new wastewater treatment plant and  
15 associated upgrades.

16 Pivotal Management owns three and operates five utilities in Arizona. Pivotal Management  
17 currently operates Pine Meadows Utilities, LLC ("Pine Meadows"), Sweetwater Creek Utilities  
18 ("Sweetwater"), Bensch Ranch Utilities LLC ("Bensch Ranch"), Cross Creek Ranch Water Company  
19 ("Cross Creek") and Verde Santa Fe Wastewater Company ("Verde Santa Fe"). Pivotal Management  
20 owns Pine Meadows, Bensch Ranch, and Verde Santa Fe. Pine Meadows received a CC&N in  
21 Decision No. 64599 (March 4, 2002); Sweetwater obtained its initial CC&N in Decision No. 59916  
22 (December 10, 1996); Bensch Ranch obtained its CC&N in Decision No. 67180 (August 10, 2004);  
23 Cross Creek obtained its CC&N in Decision No. 65978 (June 17, 2003); and Verde Santa Fe obtained  
24 its CC&N in Decision No. 60779 (April 8, 1998).

25 The principals of Pivotal Management are John Clingman, Jason Williamson and Dwight  
26 Zemp. Mr. Williamson is the managing member and is responsible for day-to-day operations. He is  
27 also the president of Coronado. Messrs. Clingman, Williamson and Zemp own the stock of  
28 Coronado. Mr. Clingman and Mr. Zemp own Santec. Santec is a Colorado corporation that designs,

1 constructs, operates and manages wastewater facilities. Since 1987, Santec has developed over 200  
2 wastewater facilities in the United States and the Caribbean. Santec's promotional materials describe  
3 Pivotal Management as "the operations arm of Santec."

4 Coronado plans to take over and operate the existing BHP sewer facilities during the  
5 construction of a new wastewater treatment plant. Coronado intends to obtain tax-free financing to  
6 acquire and upgrade the facilities. Thus, in conjunction with its CC&N Application, the Company  
7 requested authority to borrow funds from the Municipal Leasing Credit Corporation ("MLCC"), with  
8 an expected annual interest rate between 6 and 7 percent. MLCC will arrange financing in  
9 connection with the Pinal County Industrial Development Authority. Coronado will contribute  
10 \$878,863 in equity and borrow \$2,650,800. The new wastewater treatment facility is expected to cost  
11 \$3,066,000 for backbone plant and \$66,000 for on-site facilities. Other costs include \$150,000 for  
12 organizational costs and \$75,000 for land. Mr. Williamson states, that although Coronado is an  
13 affiliate of Santec, the project to construct the new treatment plant will be put to competitive bid.

14 Staff reports that the Utilities Division Consumer Services Section has received no complaints  
15 from customers of the Arizona utilities owned and/or operated by Pivotal Management over the last  
16 three years. The Utilities Division Compliance Section reports no outstanding issues with those  
17 utilities. The respective Annual Reports for the utilities show all property taxes to be paid.

#### 18 The Issues

##### 19 Public Interest

20 The residents of San Manuel are very concerned about the rate impact of Coronado acquiring  
21 the existing plant and constructing a new wastewater treatment plant. The rates users will pay will  
22 increase substantially from the \$48 they currently pay annually. Many of the comments received  
23 from the public urge the Commission to require BHP to continue providing sewer service at a rate of  
24 between \$12 and \$18 per month. The residents argue that BHP is a public service corporation and  
25 should not be allowed to walk away from its obligations to provide sewer service at a reasonable rate.

26 BHP has been providing sewer service incidental to its operation of the mine and has never  
27 been regulated as a public service corporation by this Commission. Staff and Coronado disagree as  
28 to whether BHP is, or would be, a public service corporation. BHP is not a party to this proceeding,

1 and did not provide its own legal analysis. Because BHP is not a party, we do not make a  
2 determination in this proceeding whether or not it is a public service corporation. It is, however,  
3 arguable that even if BHP was not a public service corporation while it operated the sewer plant  
4 incidental to its mining operations, if BHP does not sell its wastewater collection and treatment  
5 facilities and must continue providing the service, it could be considered to be a public service  
6 corporation and would have to provide service under terms and conditions prescribed by the  
7 Commission.

8 Mr. Brunskill, BHP's Manager of Closure Operations, testified that if BHP is not able to sell  
9 its sewer system to Coronado or another buyer that it would continue to operate the facility. Sept. 19,  
10 2005 trans. at 58. The evidence is that even if BHP continues to operate the system, it will have to  
11 make significant and substantial upgrades similar to the ones that Coronado proposes to make. Id. at  
12 54. The current treatment facility is fifty years old and past its useful life. It was permitted under  
13 BHP's mining permit and can no longer operate under that permit when the mine is closed. Id. at 53.  
14 The existing facility would not meet current ADEQ permitting requirements. Thus, whichever entity  
15 ultimately provides sewer service to the community of San Manuel, whether it be Coronado, BHP, or  
16 another entity, that entity will need to construct a new treatment facility that meets ADEQ  
17 regulations. A new wastewater treatment facility will result in higher rates. The San Manuel  
18 residents do not complain about Coronado providing service. The experience of Coronado's  
19 management in owning and operating wastewater treatment facilities in Arizona affords them the  
20 knowledge and ability to operate such system as efficiently, or more efficiently than any other party.

21 BHP, whether it is a public service corporation or not due to its ownership of the existing  
22 sewer system, has the right to find a way to exit the business of providing wastewater service. In its  
23 first Amended Staff Report, Staff noted that the Commission has had negative experiences with  
24 utilities that no longer wish to be in the industry. During public comment, various individuals  
25 described attempts to contact BHP about the community forming a sewer district and acquiring the  
26 system from BHP. Mr. Brunskill also testified about such efforts from BHP's perspective. Sept. 19,  
27 2005 trans. at 55-57. For whatever reason, the residents have not taken steps to form a sewer district,  
28 but the lack of formation of a district prior to the purchase does not preclude the formation of such

1 district in the future and either acquiring the system from either BHP or Coronado through a  
2 negotiated purchase or condemnation proceeding.

3 The evidence supports a finding that Coronado has the technical, managerial and financial  
4 ability to operate a wastewater system in the San Manuel area. It is currently operating the existing  
5 system under an agreement with BHP and owns and operates five other systems in Arizona without  
6 complaints or operational difficulties.

7 Two of the principals of Pivotal Management are owners of Santec which was involved in an  
8 incident at the Far West Water and Sewer Company in Yuma, Arizona ("Far West") in which an  
9 employee of Santec and an employee of Far West died during the course of working on one of Far  
10 West's tanks that had been constructed by Santec. The evidence received concerning the incident at  
11 Far West shows that Santec did not have adequate policies or training concerning permit-required  
12 confined spaces. However, following the Far West incident, Santec has provided training to all of its  
13 employees on permit-required confined space entries. There have been no other incidents involving  
14 Santec that have resulted in the serious injury of any of its employees. Although Santec pled guilty to  
15 a class 6 felony for violating Safety Standards and Causing the Death of an Employee, the charges  
16 against its principals personally were dropped. As discussed below, Staff has made recommendations  
17 concerning training that are intended to ensure that Coronado operates the facilities as safely as  
18 possible. The Company has agreed to all of Staff's recommendations.

19 Santec is a separate entity than the applicant in this case, although its owners are two of the  
20 three shareholders of Coronado. Neither Mr. Zemp nor Mr. Clingman plan to have a role in the day-  
21 to-day operations of Coronado. In any event, the evidence indicates that Santec and Coronado have  
22 taken appropriate actions, by updating their operations manuals and providing additional training to  
23 employees and contractors, to prevent serious injuries in the future.

24 We find that Coronado is a fit and proper entity to own and operate a wastewater collection  
25 and treatment facility in San Manuel. We believe, however, that certain conditions are required for a  
26 finding that this transaction to be considered in the public interest.

27 ...

28 ...

1 Capital Structure

2 Initially, Coronado proposed that the Commission approve a capital structure consisting of 13  
3 percent equity and 87 percent debt. The Company wanted to take advantage of low cost tax free  
4 financing. It proposed to contribute \$292,365 of equity and to borrow \$3,300,000 from the  
5 Municipal Leasing Credit Corporation. Coronado argued that the availability of low cost debt would  
6 lessen the impact on ratepayers.

7 Staff initially recommended a capital structure that consisted of 40 percent equity and 60  
8 percent debt. Staff believed that the Company's proposed capital structure was more highly  
9 leveraged than is appropriate for an established utility, and that a new utility should have more equity  
10 in its capital structure than an established utility.

11 Prior to the commencement of the first re-opened hearing in September 2005, Staff and  
12 Coronado were able to reach a compromise concerning the capital structure. They agreed to a capital  
13 structure consisting of 27 percent equity and 73 percent debt. Under the revised joint proposal,  
14 Coronado would contribute equity totaling \$878,863 and borrow \$2,650,800 from MLCC. Staff  
15 further recommended that to build equity, Coronado retain 75 percent of its net operating income  
16 until equity represents 40 percent of total capital.

17 Although Coronado agreed to invest more equity in the Company, at the time of the  
18 September 2005 hearing, it did not agree that any restriction on equity distribution was needed or  
19 appropriate. Coronado argued that restricting 75 percent of its earnings would negatively impact its  
20 ability to attract capital.

21 We appreciate that Coronado is mindful of the impact on ratepayers that will result from its  
22 acquisition of the existing plant and its construction of a new wastewater treatment plant, however,  
23 the operation of a wastewater treatment facility can involve a number of risks to the health and safety  
24 on the environment and local community. Because the construction of a new wastewater treatment  
25 facility will have a substantial impact on ratepayers, extraordinary measures to mitigate that impact as  
26 much as possible are warranted in this case. Thus, we agree with the parties' joint proposal that  
27 Coronado be authorized to borrow low cost funds in the amount of \$2,650,800, which would result in  
28 a capital structure of 27 percent equity and 73 percent debt at the end of the first year. It is highly

1 unusual for the Commission to approve this much debt for an entity seeking a new CC&N, however,  
 2 the entire circumstances of this case are unusual. In this case, the risks associated with a new entity  
 3 taking on such a proportionately large amount of debt are somewhat mitigated by the fact that  
 4 Coronado is also acquiring an existing system that already has 1,600 customers who will provide  
 5 immediate cash flow for debt service.

6 We believe that Coronado should have the goal of increasing the amount of equity in its  
 7 capital structure. As the Company itself recognized, wastewater operations can require substantial  
 8 capital needs and that compliance requirements can be onerous.<sup>3</sup> A more balanced capital structure  
 9 would allow the Company to make capital improvements and weather unforeseen events, as well as  
 10 improve access to capital. Projections do not show the Company enjoying positive operating income  
 11 until its third year of operations, and thus, all things remaining equal, equity would drop even lower  
 12 until the Company reaches a point of positive earnings. Coronado's principals have shown an  
 13 interest in investing in Arizona utilities and to date have provided safe and adequate service to  
 14 Arizona consumers in the other utilities they own and operate. The Company's protestations do not  
 15 persuade us that the limitation on the distribution of earnings as recommended by Staff will have a  
 16 significantly adverse affect on Coronado's owners' ability to attract capital. Although we are  
 17 approving a lower equity ratio than is customary for a new company (27 percent), we recognize that  
 18 special circumstances surrounding this case warrant our flexibility to lessen the impact on rate payers.  
 19 However, we believe that a stronger capital structure in the long run is in the public interest. Thus,  
 20 we adopt Staff's recommendation to require the Company to retain 75 percent of its net operating  
 21 income until equity represents 40 percent of total capital.<sup>4</sup>

## 22 Rates

23 Prior to the September 2005 Re-opened hearing, in an attempt to reduce the rate shock on end  
 24 users, Coronado and Staff agreed to phased-in rates as follows:

25 ...

26 ...

27 \_\_\_\_\_  
 28 <sup>3</sup> September 12, 2005 transcript at 10.

<sup>4</sup> At the January 27, 2006 re-opened hearing, Coronado indicated that it no longer opposed this restriction.

## Proposed Rates

**PHASE 1****MONTHLY CUSTOMER CHARGES:**

Residential	\$30.23
Commercial	7.50
Mobile Home Park – Winter Only [A]	7.50
School	7.50

**VOLUMETRIC RATES – Based on Metered Water Usage**

Commercial – per 100 gallons of water usage	\$0.6400
Mobile Home Park – per 100 gallons of water usage (winter only) [A]	0.3700
School – per 100 gallons of water usage	0.2000

**VOLUMETRIC RATES – Based on Number of Units**

Mobile Home Park – monthly rate per occupied space – (summer only) [A]	\$20.71
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**EFFLUENT SALES**

Per 1,000 Gallons for general irrigation	\$ 0.15
Per Acre Foot (or 325,851 gallons) of general irrigation	48.88

**PHASE 2****MONTHLY CUSTOMER CHARGES:**

Residential	\$46.50
Commercial	7.50
Mobile Home Park – Winter Only	7.50
School	7.50

**VOLUMETRIC RATES – Based on Metered Water Usage**

Commercial – per 100 gallons of water usage	\$0.9800
Mobile Home Park – per 100 gallons of water usage (winter only)	0.5700
School – per 100 gallons of water usage	0.3122

...

...

...

VOLUMETRIC RATES – Based on Number of Units

Mobile Home Park – monthly rate per occupied space – \$31.86  
(summer only) [A]

EFFLUENT SALES

Per 1,000 Gallons for general irrigation \$0.15  
Per Acre Foot (or 325,851 gallons) of general irrigation 48.88

SERVICE INSTALLATION CHARGES Cost[B]SERVICE CHARGE:

Establishment of Service \$25.00  
Re-establishment of Service \*\*  
Reconnection (Delinquent) 35.00  
Minimum Deposit \*\*\*  
Deposit Interest \*  
NSF Check 25.00  
Deferred Payment 1.5%  
Late Payment Penalty 1.5%

All revenue related taxes will be charged customers

Main Extension and additional facilities agreements Cost [B]

\* Per Commission rule A.A.C. R-14-2-403(B).

\*\* Months off system times the monthly minimum per Commission rule A.A.C. R14-2-403(D).

\*\*\* Two times monthly bill

[A] Summer (April, May, June, July, August, September)

Winter (January, February, March, October, November, December)

[B] Cost to include parts, labor, overhead, and all applicable taxes, including income tax.

Note No. 1: Usage rates for mobile home park customers during summer months will be based on previous winter use averages. Winter rates will be based on monthly actual water usage.

Note No. 2: For any customer being billed volumetrically, water meters that can be shown to be "irrigation only" will be excluded from the tariff calculations.

The first phase reflected the lower operating costs of the existing system compared to the projected costs for the new system and plant. Integral to the joint recommendation concerning Phase 1 rates was Coronado's agreement not to record an allowance for funds used during construction until

1 Phase 2 rates become effective. The parties proposed that the second phase go into effect after the  
 2 new wastewater treatment plant and collection system are in service, after the Company files an  
 3 Approval of Construction from ADEQ and after the customers have received notice of the increase at  
 4 least 30 days before the rates are implemented.

5 The November 2005 ROO adopted the two step phase-in proposed by the parties, but  
 6 modified the monthly charge for residential customers, reducing it to \$27.00 per month. The  
 7 November 2005 ROO found that the Phase 1 rates, as proposed by the parties, were generally fair and  
 8 reasonable to all parties as they allow Coronado to cover its operating costs of the existing facility  
 9 and provide sufficient funds for debt service, but that the residential rates should be reduced to  
 10 \$27.00 a month (from the proposed \$30.23 per month). These rates still allow the Company to cover  
 11 its operating costs and cover its debt service. Under these rates, ratepayers would be contributing  
 12 toward the debt service costs associated with the new plant that is not yet used to provide service, and  
 13 the ROO found that it was fair that shareholders use some of their net earnings toward debt service  
 14 until the new plant is in service.

15 At the December 6, 2005 Open Meeting, Commissioners expressed a desire for the parties to  
 16 re-consider whether the impact of the increased rates on ratepayers could be further mitigated by an  
 17 additional phase-in period, hook-up fees, or other method.

18 In the December 28, 2005 testimony of Jason Williamson, Coronado proposed a three step  
 19 phase-in of rates. Under the Company's proposal, the Phase 1 rates established in the November  
 20 2005 ROO would go into effect upon Commission approval of the application. When the new  
 21 treatment facility is complete, a new second phase of rates would go into effect for 12 months.  
 22 Coronado proposed the following rates for Phase 2:

23 **Monthly Customer Charge:**

24 Residential	\$37.00
25 Commercial	7.50
Mobile Home Park (winter only)	7.50
School	7.50

26 **Volumetric Rates (based on number of units)**

27 Per 100 gallons of usage	
Commercial	\$ 0.81
Mobile Home Park	0.47
28 Schools	0.2561

1 All other rates in the new Phase 2 would be as recommended in the November 2005 ROO. Coronado  
2 states that BHP has agreed to subsidize the Phase 2 rates for the 12 month period after the plant is  
3 complete. Thus, BHP has agreed to pay Coronado the difference between the revenues it would have  
4 received under the final phase and that it actually receives under Phase 2. Coronado estimates that  
5 BHP will pay Coronado between \$200,000 and \$250,000 as a result of this agreement.

6 After 12 months, Phase 3 would go into effect, equal to the final phase as recommended by  
7 Staff and Coronado and adopted in the November 2005 ROO. Coronado states that all phase changes  
8 would be preceded by at least 30 days notice to customers.

9 Staff believes that Coronado's three phase rate design is superior to those previously  
10 recommended by Staff as they mitigate the expected rate increase. Staff recommends approval. Staff  
11 testified that although there have been rumors of a large development within Coronado's service area,  
12 there is no evidence that such development will occur in the near future. The best available evidence  
13 indicates that there will be little growth within the service territory. Thus, at this time, hook-up fees  
14 do not represent an effective means for financing new plant and mitigating the rate shock of  
15 constructing the new plant on existing customers. In the future, as growth requires plant expansion,  
16 hook-up fees may be appropriate.

17 Staff recommends that Coronado file a rate case 24 months after the Phase 2 rates go into  
18 effect.<sup>5</sup> Such rate case will ensure that estimates of revenue and expenses are accurate. Twenty four  
19 months will allow the Company sufficient time to gather accurate and normalized operating cost  
20 information.

21 We find that the three Phase rate design as proposed by the parties is reasonable and should be  
22 adopted upon the terms proposed. These represent a substantial increase from the current charges  
23 residents pay, but San Manuel residents have been paying below cost and below market rates for  
24 many years. A modern wastewater treatment facility that meets all federal and state regulations is an  
25 important asset for any community and is required in this case. Coronado has tired hard to lessen the  
26 impact of the new plant on ratepayers by finding low cost financing and enlisting the assistance of  
27

28 <sup>5</sup> This is a modification of Staff's recommendation that a rate case be filed in the fourth year of operations.

1 BHP.

2 Safety

3 After the conclusion of the June 29, 2005 hearing, Staff learned that on June 20, 2005, Santec  
4 pled guilty to causing the death of an employee during a fatal accident that occurred October 24,  
5 2001, in a wastewater plant belonging to Far West. Far West hired Santec in February 2001 to  
6 conduct repair and upgrade work at its wastewater facilities. On October 25, 2001, while entering a  
7 sewer collection tank to deflate a stopper in a gravity line, a Far West employee collapsed and died  
8 from asphyxiation. A Santec employee who entered the tank to rescue the Far West employee also  
9 died. On December 23, 2002, a Grand Jury Indictment was filed in the Superior Court charging Far  
10 West and Santec with knowingly violating "a standard or regulation and that violation caused death  
11 to an employee."

12 The safety violations were related to the "Permit Required Confined Spaces" rules of OSHA,  
13 which require that employers provide employees with the understanding, knowledge and skills  
14 necessary for the safe performance of the duties assigned. Written procedures and training designed  
15 to prevent the type of accident that occurred were either missing or not followed. On June 30, 2005,  
16 Santec and the State of Arizona filed a plea agreement in the Superior Court, in which Santec agreed  
17 to plead guilty to a Class 6 felony, Violating Safety Standard and Causing Death of an Employee.  
18 According to the agreement, Santec will pay restitution to the wife of one victim and restitution to  
19 other victims as ordered by the Court. Mr. Clingman and Mr. Zemp also agreed to be available for  
20 interviews with the State and would be provided immunity from criminal prosecution arising from  
21 the events.

22 Following the October 2001 accident, Santec reviewed all safety and confined space  
23 policies, and purchased additional equipment and provided additional training as needed. Santec has  
24 made its employees aware of safety procedures and that confined space entries require written  
25 confirmation and documentation even if they are not permit required. Pivotal Management reviewed  
26 the safety procedures and manuals at every utility it manages to ensure buildings have all proper and  
27 necessary safety equipment and signage, and that operators have the proper training and resources  
28 necessary to fulfill their duties in the safest possible manner. Coronado provided a copy of its written

1 permit-required confined space entry program. The procedure is currently in the safety manual at the  
2 San Manuel wastewater treatment plant and will be adopted by Coronado at the closing of the sale.

3 Staff believes that due to the tragic consequences of Santec's safety violations at Far West,  
4 the Commission should take measures to ensure that such events do not occur at Coronado. Thus,  
5 Staff recommends that all agents, employees or operators, including employees and agents of  
6 contractors and/or subcontractors constructing or operating the Coronado facilities must comply with  
7 Arizona Division of Occupational Safety and Health ("ADOSH") requirements including any and all  
8 training required by ADOSH to operate wastewater facilities. In addition, Staff recommends that for  
9 three years, Coronado must file in Docket Control certification from ADOSH that it has availed itself  
10 of ADOSH's consultation services and that its operators, agents, employees, including employees and  
11 agents of contractors and subcontractors constructing or operating the Coronado facilities, have taken  
12 appropriate training.

13 Coronado does not object to Staff's recommendations concerning safety.

14 Staff's recommendations addressing safety are reasonable and we will adopt them.

15 Recap of Staff Recommendations

16 Staff makes the following recommendations:

- 17 1. That the Commission make a fair value rate base finding of \$3,096,163;
- 18 2. That Coronado use the depreciation rates as set forth in the Staff Report filed on  
19 May 7, 2005;
- 20 3. That Coronado be ordered to file a rate application 24 months after the  
21 implementation of Phase 2 rates;
- 22 4. That the Commission require Coronado to maintain its books and records in  
23 accordance with the NARUC Uniform System of Accounts for Sewer Utilities;
- 24 5. That the Commission require Coronado to file with Docket Control a tariff  
25 consistent with the rates and charges authorized by the Commission within 30 days  
26 of the effective date of a decision in this matter;
- 27
- 28

- 1 6. That Coronado be authorized to obtain \$2,650,800 in long-term debt financing on
- 2 the terms and conditions consistent with or better than those used in Staff's pro
- 3 forma analysis;
- 4 7. That Coronado's initial capitalization comprise at least \$878,863 of equity;
- 5 8. That Coronado be required to retain 75 percent of its net operating income until
- 6 equity represents 40 percent of total capital;
- 7 9. That Coronado be required to file in Docket Control by April 15<sup>th</sup> of each year a
- 8 Statement of Liabilities and Stockholders Equity until and including such time as
- 9 the equity represents 40 percent of total capital;
- 10 10. That the Commission approve the granting of liens in favor of the lender as
- 11 required to secure the borrowings authorized;
- 12 11. That no loan funds be applied to operating expenses or income;
- 13 12. That Coronado be authorized to engage in any transaction and to execute any
- 14 documents necessary to effectuate the financing authorizations granted;
- 15 13. That Coronado be ordered to file copies of all executed financing documents with
- 16 Docket Control within 90 days of loan closing;
- 17 14. That the Commission require Coronado to file with Docket Control a copy of the
- 18 Pinal County franchise within 365 days of the effective date of the decision in this
- 19 matter;
- 20 15. That the Commission require Coronado to file with Docket Control a copy of the
- 21 ADEQ Unified Water Quality Permit of the San Manuel Wastewater Treatment
- 22 Facility authorizing a treatment and disposal capacity of 350,000 gallons per day
- 23 within 365 days of the effective date of the decision and order in this matter;
- 24 16. That all operators, agents, employees or operators including employees and agents
- 25 of contractors and/or subcontractors operating or constructing the Coronado
- 26 facilities must comply with all ADOSH requirements including any and all
- 27 training required by ADOSH to operate wastewater facilities;
- 28

17. That on an annual basis, on the anniversary date of the Decision in this matter, for three years, Coronado should file in Docket Control, as a compliance item, certification from ADOSH that it has availed itself of ADOSH consultation services and its operators, agents, employees including employees and agents of contractors/and or subcontractors operating or construction the Coronado facilities have taken appropriate training; and

18. That the Certificate granted to Coronado be considered null and void after due process should Coronado fail to meet Conditions 5, 14 and 15 within the time specified.

Coronado does not object to any of these conditions.

These conditions are reasonable and should be adopted.

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

# **FINDINGS OF FACT**

1. On February 10, 2005, Coronado filed with the Commission an Application for an a new Certificate to provide wastewater utility service in the unincorporated community of San Manuel, in Pinal County.

2. On February 10, 2005, Coronado filed an Application for authority to issue a combination of short and long-term debt instruments totaling not more than \$3,300,000, the proceeds of which are intended to finance the acquisition of the wastewater infrastructure.

3. On February 11, 2005, Coronado filed a Motion to Consolidate the two applications.

4. On February, 23, 2005, Staff filed a Response to the Motion, indicating Staff has no objection to consolidating the two applications. The matters were consolidated in our Procedural Order dated March 16, 2005.

5. On March 15, 2005, Staff docketed a letter indicating that the CC&N Application meets the sufficiency requirements of the Arizona Administrative Code.

6. By Procedural Orders dated March 16, 2005, March 23, 2005 and May 3, 2005,

1 procedural guidelines were established and the hearing in this matter was set for June 29, 2005.

2 7. On May 12, 2005, Coronado mailed a copy of the required notice of the hearing to all  
3 customers in San Manuel. The Company caused the notice to be published in the *San Manuel Miner*  
4 on April 27, 2005.

5 8. On May 27, 2005, Staff filed a Staff Report, recommending approval of the  
6 application subject to conditions.

7 9. On June 13, 2005, Coronado filed a Response to the Staff Report, primarily objecting  
8 to Staff's recommended capital structure.

9 10. On June 21, 2005, Staff filed an Addendum to the Staff Report, revising its  
10 recommended rates and charges.

11 11. The hearing convened as scheduled on June 29, 2005, before a duly authorized  
12 Administrative Law Judge. At the end of the hearing, Staff agreed to file a revised rate schedule.

13 12. On July 6, 2005, Staff filed a Request to Re-open the hearing in order to allow Staff to  
14 consider the sentencing of Santec in a criminal proceeding and to present its revisions to its proposed  
15 rate design.

16 13. By Procedural Order dated July 7, 2005, the hearing was re-opened and set for July  
17 22, 2005. The July 7, 2005 Procedural Order required Staff to prepare a legal analysis of whether  
18 BHP Copper, the entity that is currently providing wastewater service in the affected area, is, or could  
19 be, a public service corporation, and suspended the time clock rule.

20 14. On July 11, 2005, Staff filed a Request to Reset the July 22, 2005, hearing date as the  
21 Santec sentencing had been continued until August 11, 2005. Staff believed that the results of that  
22 proceeding could affect its recommendations in this matter, and requested that the re-opened hearing  
23 be re-set to no earlier than two weeks after the sentencing hearing. Staff also requested that  
24 Coronado be required to re-notice the re-opened hearing and that the Company provide a witness  
25 from BHP who can provide information about customer complaints and background information that  
26 would be helpful in determining whether BHP is a public service corporation.

27 15. By Procedural Order dated July 12, 2005, a Procedural Conference convened on July  
28 22, 2005. Staff and Coronado agreed that publication would be an effective and cost effective means

1 of notifying the San Manuel customers of the re-opened hearing.

2 16. By Procedural Order dated August 2, 2005, the Administrative Law Judge ordered  
3 Coronado to have notice of the re-opened proceeding published in the local newspaper and to post  
4 notice of the re-opened hearing in at least three public locations within its proposed service area. In  
5 addition, the Administrative Law Judge provided a copy of the Procedural Order to the local  
6 newspaper. The August 2, 2005, Procedural Order required Coronado as well as Staff, to provide a  
7 legal analysis of the status of BHP as a public serve corporation and agreed that arranging for the  
8 witness from BHP should be Staff's responsibility.

9 17. Because of the great interest in the local community in this matter, as a courtesy, the  
10 Administrative Law Judge issued a Procedural Order dated August 18, 2005, that sent copies of past  
11 pleadings to the San Manuel Library and ordered the parties to provide copies of future pleadings to  
12 the library.

13 18. On August 31, 2005, Staff and Coronado filed their analyses concerning BHP's status  
14 as a public service corporation. In Staff's opinion BHP satisfies a great number of the criteria used to  
15 determine whether a business entity is a public service corporation. Coronado's analysis included an  
16 affidavit of Gerald Brunskill, BHP's Manager of Closure Operations. In Coronado's opinion, BHP is  
17 not a public service corporation because it has never engaged in the sewage business "for profit."

18 19. Also on August 31, 2005, Staff filed an Amended Staff Report which continues to  
19 recommend approval of the CC&N. Staff's revised recommendations include a higher debt to equity  
20 ratio that Staff originally advocated, but also included a requirement that Coronado retain 75 percent  
21 of its earnings until the capital structure contains at least 40 percent equity. Staff recommended  
22 phased-in rates and advocated the imposition of conditions that would require Coronado to participate  
23 in safety training.

24 20. On September 13, 2005, Coronado filed Comments on the Amended Staff Report,  
25 objecting to the recommendation that the Company retain 75 percent of its earnings until equity  
26 reaches 40 percent. Coronado did not object to Staff's recommended conditions concerning training  
27 and safety.

28 21. On August 31, 2005, Coronado had notice of the re-opened hearing published in the

1 *San Manuel Miner*. On August 29, 2005, Coronado also had notice of the hearing posted in three  
2 public locations within the proposed service area.

3 22. The re-opened hearing convened before a duly authorized Administrative Law Judge  
4 as scheduled on September 19, 2005.

5 23. At the commencement of the re-opened hearing 15 residents of San Manuel gave  
6 public comment. In addition, the Commission received numerous written comments from residents  
7 opposed to the application. The residents of San Manuel are extremely concerned about the  
8 increased the cost to them resulting from the construction of a new wastewater treatment plant. They  
9 believe that BHP has the obligation to continue to provide wastewater service to them at a much  
10 lower rate than is being proposed in the current application.

11 24. On November 18, 2005, the Hearing Division issued a ROO that recommended  
12 approval of the Application, and recommended rates different than those proposed by Coronado and  
13 Staff at the September 19, 2005 hearing. The Commission heard the matter at its December 6, 2005  
14 Open Meeting. At that time, the Commissioners determined that they required additional information  
15 concerning the event that led to the Santec plea agreement and whether the anticipated rate shock  
16 could be further mitigated. The Commissioners directed the Hearing Division to conduct additional  
17 proceedings.

18 25. By Procedural Order dated December 19, 2005, another hearing was set to commence  
19 on January 27, 2006. Coronado filed additional testimony on December 28, 2005. On January 12,  
20 2006, Staff filed documents related to the criminal investigation and plea agreement of Santec. Staff  
21 filed its Second Amended Staff Report on January 18, 2006. Coronado filed rebuttal testimony on  
22 January 24, 2006.

23 26. Pursuant to the December 19, 2005 Procedural Order, Coronado had notice of the re-  
24 opened hearing published in the *San Manuel Miner* on December 28, 2005 and Coronado posted  
25 notice of the re-opened hearing on January 3, 2006.

26 27. The re-opened hearing convened as scheduled on January 27, 2006. One member of  
27 the public provided comment. Jason Williamson and John Clingman testified for Coronado and  
28 Linda Jarress testified for Staff.

1        28.    BHP has provided sewer service to the residents of San Manuel incidental to its  
2 mining operations for over 50 years.

3        29.    The residents within the proposed certificated area currently receive sewer service  
4 from BHP for a charge of \$48 annually. The current charge is below BHP's costs of providing the  
5 service.

6        30.    BHP suspended underground mining at San Manuel in June 1999, and announced in  
7 January 2002, that it would be closing the mine. On October 23, 2003, BHP announced that it would  
8 also permanently close its processing plant. BHP plans to complete closure of the mine and plant by  
9 the end of 2007.

10       31.    On November 1, 2004, BHP and Coronado entered into a purchase agreement for the  
11 wastewater collection and treatment facilities. At the same time, Pivotal Management, an affiliate of  
12 Coronado, entered into an Operation and Maintenance Agreement with BHP to operate and manage  
13 the current wastewater treatment plant pending construction of a new treatment plant that will  
14 eventually serve existing and future customers. The Purchase Agreement requires Coronado to seek  
15 a CC&N from the Commission, and to obtain an Aquifer Protection Permit from ADEQ for the new  
16 wastewater treatment plant and associated upgrades.

17       32.    The existing BHP wastewater treatment plant is currently permitted under BHP's  
18 mining permit. The existing plant would not meet current ADEQ requirements, and cannot continue  
19 to operate under the BHP mining permit once the mine is closed.

20       33.    The wastewater treatment plant in San Manuel must be upgraded to meet current  
21 ADEQ regulations no matter what entity owns and operates the facilities.

22       34.    Coronado's management is experienced in the construction and operation of  
23 wastewater treatment plants in Arizona. Pivotal Management, which owns Coronado's stock,  
24 operates five wastewater utilities in Arizona.

25       35.    Pivotal Management owns the stock of Coronado. The principals of Pivotal  
26 Management are John Clingman, Jason Williamson and Dwight Zemp. Mr. Williamson is the  
27 managing member and is responsible for day-to-day operations. He is also the president of Coronado.  
28 Mr. Clingman and Mr. Zemp own Santec. Santec is a Colorado corporation that designs, constructs,

1 operates and manages wastewater facilities.

2       36. Coronado projects, and Staff concurs, that its investment in the new wastewater  
3 treatment facilities will be \$3,096,163 at the end of its third year of operations. For the purpose of  
4 establishing initial rates, Coronado's Fair Value Rate Base is \$3,096,163.

5       37. Coronado plans to finance the construction of the new wastewater treatment facility by  
6 borrowing \$2,650,800 from MLCC, for a term of 20 years, at an interest rate of between 6 and 7  
7 percent annually.

8       38. Coronado's principals will contribute equity of \$878,863.

9       39. Projections indicate that at the end of the first year, Coronado would have a capital  
10 structure comprised of 72.3 percent debt and 27.7 percent equity. Because of the unique  
11 circumstances surrounding this application, primary among which is the rate impact on a pre-existing  
12 customer base, an initial capital structure as proposed by the parties is reasonable.

13       40. Staff recommends that to build equity, Coronado retain 75 percent of its net operating  
14 income until equity represents 40 percent of total capital. Staff recommends that Coronado be  
15 required to file in Docket Control by April 15<sup>th</sup> of each year a Statement of Liabilities and  
16 Stockholders Equity until and including such time as the equity represents 40 percent of total capital.  
17 Coronado does not object to the recommended restriction.

18       41. Staff's recommendation that Coronado retain 75 of its net operating income until it  
19 obtains equity equivalent to 40 percent of its total capitalization is unopposed, reasonable and should  
20 be adopted.

21       42. In its December 2005 testimony, Coronado proposed a three step phase in of rates.  
22 Under this proposal, Phase 1 rates would go into effect upon Commission approval of the application.  
23 When the new treatment facility is complete and in operation, Phase 2 rates would go into effect for  
24 12 months. After 12 months, Phase 3 would go into effect. All phase changes would be preceded by  
25 at least 30 days notice to customers.

26       43. BHP has agreed to subsidize for a 12 month period, by paying Coronado the  
27 difference between what it earns under the Phase 2 rates and what it would have earned if Phase 3  
28 rates had been in effect.

1        44. Staff agreed that the Company's three phase proposal is superior to the rates Staff  
2 recommended earlier. Staff recommends their approval.

3        45. The three step phased rates as proposed by the parties are fair and reasonable and  
4 should be adopted.

5        46. The ALJ and Staff concluded that there will be little growth within the service area.  
6 However, between 5,000 and 10,000 homes could be constructed within the service area in future  
7 years. If this growth develops, hook-up fees may be appropriate to finance new plant and mitigate  
8 the rate shock on existing customers.

9        47. As a result of the Far West criminal proceeding involving Santec, Staff recommends  
10 that all operators, agents, employees or operators including employees and agents of contractors  
11 and/or subcontractors operating or constructing the Coronado facilities comply with all ADOSH  
12 requirements including any and all training required by ADOSH to operate wastewater facilities; and  
13 that on an annual basis, on the anniversary date of the Decision in this matter, for three years,  
14 Coronado file in Docket Control, as a compliance item, certification from ADOSH that it has availed  
15 itself of ADOSH consultation services and its operators, agents, employees including employees and  
16 agents of contractors/and or subcontractors operating or construction the Coronado facilities have  
17 taken appropriate training.

18        48. Staff further recommends:

- 19            (a) That Coronado use the depreciation rates as set forth in the Staff Report filed on  
20            May 7, 2005;
- 21            (b) That Coronado be ordered to file a rate application 24 months after the  
22            implementation of Phase 2 rates;
- 23            (c) That the Commission require Coronado to maintain its books and records in  
24            accordance with the NARUC Uniform System of Accounts for Sewer Utilities;
- 25            (d) That the Commission require Coronado to file with Docket Control a tariff  
26            consistent with the rates and charges authorized by the Commission within 30 days  
27            of the effective date of a decision in this matter;
- 28            (e) That Coronado be authorized to obtain \$2,650,800 in long-term debt financing on  
the terms and conditions consistent with or better than those used in Staff's pro  
forma analysis;

- (f) That Coronado's initial capitalization comprise at least \$878,863 of equity;
- (g) That the Commission approve the granting of liens in favor of the lender as required to secure the borrowings authorized;
- (h) That no loan funds be applied to operating expenses or income;
- (i) That Coronado be authorized to engage in any transaction and to execute any documents necessary to effectuate the financing authorizations granted;
- (j) That Coronado be ordered to file copies of all executed financing documents with Docket Control within 90 days of loan closing;
- (k) That the Commission require Coronado to file with Docket Control a copy of the Pinal County franchise within 365 days of the effective date of the decision in this matter;
- (l) That the Commission require Coronado to file with Docket Control a copy of the ADEQ Unified Water Quality Permit of the San Manuel Wastewater Treatment Facility authorizing a treatment and disposal capacity of 350,000 gallons per day within 365 days of the effective date of the decision and order in this matter; and
- (m) That the Certificate granted to Coronado be considered null and void after due process should Coronado fail to meet Conditions d, k and l within the time specified.

### CONCLUSIONS OF LAW

1. Upon approval of the application, Coronado will be a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.
2. The Commission has jurisdiction over Coronado and the subject matter of the application.
3. Notice of the application was provided in accordance with law.
4. There is a public need and necessity for wastewater collection and treatment service in the proposed service area set forth in Exhibit A.
5. Coronado is a fit and proper entity to receive a CC&N to provide wastewater collection and treatment service in the proposed service area.
6. The financing approved herein is for lawful purposes within Coronado's corporate powers, is compatible with the public interest, with sound financial practices, and with the proper

performance by Coronado of service as a public service corporation, and will not impair Coronado's ability to perform the service.

7. The financing approved herein is for the purposes stated in the application, is reasonably necessary for those purposes, and such purposes are not, wholly or in part, reasonably chargeable to operating expenses or to income.

8. The rates and charges approved herein are just and reasonable.

9. Staff's recommendations contained in Findings of Fact Nos. 40, 47 and 48 are reasonable and should be adopted.

### **ORDER**

IT IS THEREFORE ORDERED that the application of Coronado Utilities, Inc., for a Certificate of Convenience and Necessity to provide wastewater service in Pinal County as described in Exhibit A hereto, is approved, subject to the conditions approved herein.

IT IS FURTHER ORDERED that Coronado Utilities Inc. shall charge the following rates and charges:

#### **PHASE 1**

#### **MONTHLY CUSTOMER CHARGES:**

Residential	\$27.00
Commercial	7.50
Mobile Home Park – Winter Only [A]	7.50
School	7.50

#### **VOLUMETRIC RATES – Based on Metered Water Usage**

Commercial – per 100 gallons of water usage	\$0.6400
Mobile Home Park – per 100 gallons of water usage (winter only) [A]	0.3700
School – per 100 gallons of water usage	0.2000

#### **VOLUMETRIC RATES – Based on Number of Units**

Mobile Home Park – monthly rate per occupied space – (summer only) [A]	\$20.71
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EFFLUENT SALES

Per 1,000 Gallons for general irrigation	\$0.15
Per Acre Foot (or 325,851 gallons) of general irrigation	48.88

**PHASE 2**MONTHLY CUSTOMER CHARGES:

Residential	\$37.00
Commercial	7.50
Mobile Home Park – Winter Only	7.50
School	7.50

VOLUMETRIC RATES – Based on Metered Water Usage

Commercial – per 100 gallons of water usage	\$0.8100
Mobile Home Park – per 100 gallons of water usage (winter only)	0.4700
School – per 100 gallons of water usage	0.2561

VOLUMETRIC RATES – Based on Number of Units

Mobile Home Park – monthly rate per occupied space – (summer only) [A]	\$31.86
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**PHASE 3**MONTHLY CUSTOMER CHARGES:

Residential	\$46.50
Commercial	7.50
Mobile Home Park – Winter Only	7.50
School	7.50

VOLUMETRIC RATES – Based on Metered Water Usage

Commercial – per 100 gallons of water usage	\$0.9800
Mobile Home Park – per 100 gallons of water usage (winter only)	0.5700
School – per 100 gallons of water usage	0.3122

VOLUMETRIC RATES – Based on Number of Units

Mobile Home Park – monthly rate per occupied space – (summer only) [A]	\$31.86
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EFFLUENT SALES

Per 1,000 Gallons for general irrigation	\$0.15
--	--------

Per Acre Foot (or 325,851 gallons) of general irrigation 48.88

SERVICE INSTALLATION CHARGES Cost[B]

SERVICE CHARGE:

Establishment of Service	\$25.00
Re-establishment of Service	**
Reconnection (Delinquent)	35.00
Minimum Deposit	***
Deposit Interest	*
NSF Check	25.00
Deferred Payment	1.5%
Late Payment Penalty	1.5%
All revenue related taxes will be charged customers	

Main Extension and additional facilities agreements Cost [B]

\* Per Commission rule A.A.C. R-14-2-403(B).

\*\* Months off system times the monthly minimum per Commission rule A.A.C. R14-2-403(D).

\*\*\* Two times monthly bill

[A] Summer (April, May, June, July, August, September)

Winter (January, February, March, October, November, December)

[B] Cost to include parts, labor, overhead, and all applicable taxes, including income tax.

Note No. 1: Usage rates for mobile home park customers during summer months will be based on previous winter use averages. Winter rates will be based on monthly actual water usage.

Note No. 2: For any customer being billed volumetrically, water meters that can be shown to be "irrigation only" will be excluded from the tariff calculations.

IT IS FURTHER ORDERED that Phase 1 of the rates approved herein shall be effective for all service provided by Coronado Utilities Inc. as of the first of the month following its acquisition of the wastewater facilities from BHP Copper, and after it has sent notice of the rates and charges to its customers as provided herein.

IT IS FURTHER ORDERED that the Phase 2 rates approved herein shall be effective for all service provided by Coronado Utilities Inc. after 1) the new wastewater treatment plant and collection

1 system are in service; 2) Coronado Utilities Inc. files with Docket Control a copy of its Approval of  
2 Construction from ADEQ; and 3) the customers have received notice of the increase at least 30 days  
3 before the rates are implemented.

4 IT IS FURTHER ORDERED that the Phase 3 rates approved herein shall be effective no  
5 sooner than the thirteenth month following the implementation of Phase 2 rates, and after the  
6 customers have received notice of the increase at least 30 days before the rates are implemented.

7 IT IS FURTHER ORDERED that Coronado Utilities Inc. shall notify the Commission by  
8 filing a letter in Docket Control as soon as practicable after its acquisition of BHP Copper's facilities  
9 has closed.

10 IT IS FURTHER ORDERED that Coronado Utilities, Inc. shall notify its customers by U. S.  
11 Mail of the rates and charges authorized herein in a form acceptable to Staff.

12 IT IS FURTHER ORDERED that Coronado Utilities Inc. shall retain 75 percent of its net  
13 operating income until it obtains equity equivalent to 40 percent of its total capitalization.

14 IT IS FURTHER ORDERED that Coronado Utilities Inc., shall use the depreciation rates as  
15 set forth in the Staff Report filed on May 7, 2005.

16 IT IS FURTHER ORDERED that Coronado Utilities Inc. shall file a rate application 24  
17 months after the implementation of Phase 2 rates.

18 IT IS FURTHER ORDERED that by January 31, 2007 and annually thereafter, Coronado  
19 Utilities, Inc. shall file with Docket Control a report on any new development within its service  
20 territory. This report shall be filed annually by January 31, until Coronado Utilities, Inc.'s next  
21 general rate case. Staff shall review this report and determine whether the implementation of hook-  
22 up fees would be appropriate.

23 IT IS FURTHER ORDERED that Coronado Utilities Inc. shall maintain its books and records  
24 in accordance with the NARUC Uniform System of Accounts for Sewer Utilities.

25 IT IS FURTHER ORDERED that Coronado Utilities Inc. shall file with Docket Control, as a  
26 compliance item, a tariff consistent with the rates and charges authorized by the Commission within  
27 30 days of the effective date of this Decision and the Certificate of Convenience and Necessity shall  
28

1 be considered null and void after due process in the event Coronado Utilities, Inc. fails to comply  
2 with this condition within the specified time.

3 IT IS FURTHER ORDERED that Coronado Utilities Inc. is authorized to obtain \$2,650,800  
4 of long-term debt financing from Municipal Leasing Credit Corporation for a term of 20 years with  
5 an annual interest rate not to exceed 7 percent annually.

6 IT IS FURTHER ORDERED that such finance authority shall be expressly contingent upon  
7 Coronado Utilities Inc.'s use of the proceeds for the purposes stated in its application and approved  
8 herein.

9 IT IS FURTHER ORDERED that Coronado Utilities Inc. is authorized to execute any  
10 documents necessary to effectuate the authorizations granted.

11 IT IS FURTHER ORDERED that no loan proceeds authorized herein shall be applied to  
12 operating expenses or income.

13 IT IS FURTHER ORDERED that Coronado Utilities Inc. shall file, as a compliance item,  
14 copies of all executed financing documents with Docket Control within 90 days of loan closing.

15 IT IS FURTHER ORDERED that Coronado Utilities Inc. shall file with Docket Control, as a  
16 compliance item, a copy of the Pinal County franchise within 365 days of the effective date of this  
17 Decision and the Certificate of Convenience and Necessity shall be considered null and void after due  
18 process in the event Coronado Utilities, Inc. fails to comply with this condition within specified time.

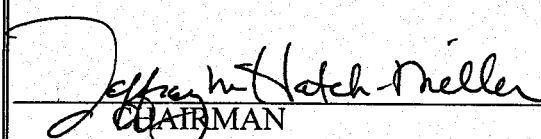
19 IT IS FURTHER ORDERED that Coronado Utilities Inc. shall file with Docket Control, as a  
20 compliance item, a copy of the ADEQ Unified Water Quality Permit of the San Manuel Wastewater  
21 Treatment Facility authorizing a treatment and disposal capacity of 350,000 gallons per day within  
22 365 days of the effective date of this Decision and the Certificate of Convenience and Necessity shall  
23 be considered null and void after due process in the event Coronado Utilities, Inc. fails to comply  
24 with this condition within the specified time.

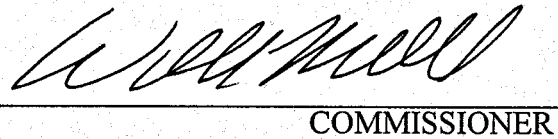
25 IT IS FURTHER ORDERED that all operators, agents, employees or operators including  
26 employees and agents of contractors and/or subcontractors operating or constructing the Coronado  
27 Utilities, Inc. facilities shall comply with all ADOSH requirements including any and all training  
28 required by ADOSH to operate wastewater facilities.

IT IS FURTHER ORDERED that on an annual basis, on the anniversary date of the Decision in this matter, for three years, Coronado Utilities, Inc. shall file in Docket Control, as a compliance item, certification from ADOSH that it has availed itself of ADOSH consultation services and its operators, agents, employees including employees and agents of contractors/and or subcontractors operating or construction the Coronado facilities have taken appropriate training.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

  
CHAIRMAN

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 23rd day of March, 2006.

  
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

JR:mj

SERVICE LIST FOR:

CORONADO UTILITIES, INC.

DOCKET NO.:

SW-04305A-05-0086

SW-04305A-05-0087

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## Legal Description of The San Manuel Sewer

That part of Section 24 and 25, Township 9 South, Range 16 East, and Sections 19,20,28,29,30,31,32 and 33, Township 9 South, Range 17 East, and Sections 4,5 and 6, Township 10 South, Range 17 East, of the Gila and Salt River Base and Meridian, Pinal County, Arizona, described as follows;

Commencing at the southeast corner of the above mentioned Section 5, Township 10 South, Range 17 East, said point being the point of beginning of the land to be described, (The basis of bearing is the south line of the southeast quarter of Section 5, Township 10 South, Range 17 East being north 89 degrees 57 minutes 50 seconds West).

THENCE North 89 degrees 57 minutes 50 seconds West for a distance of 2650.23 feet along the south line of said Section 5 to the south quarter corner being a found GLO brass cap dated 1924.

THENCE North 89 degrees 56 minutes 30 seconds West for a distance of 2645.27 feet along the south line of said Section 5 to the southwest corner being a found GLO brass cap dated 1924.

THENCE South 89 degrees 40 minutes 58 seconds West for a distance of 2638.79 feet along the south line of said Section 6 to the south quarter corner being a found GLO brass cap dated 1924

THENCE South 89 degrees 37 minutes 16 seconds West for a distance of 2632.37 feet along the south line of said Section 6 to a found GLO stone.

THENCE North 00 degrees 05 minutes 24 seconds West for a distance of 5538.15 feet along the west line of said Section 6 to a found brass cap, being the intersection of Township 9 and 10 South, and Range 16 and 17 East.

THENCE North 00 degrees 54 minutes 22 seconds West for a distance of 5291.81 feet along the west line of said Section 31 to the northwest corner being a found 5/8 inch rebar.

THENCE North 00 degrees 56 minutes 15 seconds West for a distance of 2662.69 feet along the west line of said Section 30 to the west quarter corner being a found 3/4 inch open pipe.

THENCE North 00 degrees 59 minutes 01 seconds West for a distance of 2322.17 feet along the west line of said Section 30 to a found aluminum cap LS 4154 on the south line of the San Manuel Golf Course.

THENCE North 66 degrees 21 minutes 49 seconds West for a distance of 801.59 feet along the south line of the San Manuel Golf Course to a found aluminum cap LS 4154.

THENCE North 66 degrees 22 minutes 41 seconds West for a distance of 1887.00 feet along the south line of the San Manuel Golf Course to a found Aluminum cap LS 4154.

THENCE North 00 degrees 00 minutes 54 seconds East for a distance of 1201.47 feet along the west line of the San Manuel Golf Course to a found Aluminum cap LS 4154 on the south right-of-way line of highway 76.

THENCE South 67 degrees 01 minutes 57 seconds East for a distance of 1855.09 feet along the south right-of-way line of highway 76 to a ADOT monument  $\frac{3}{4}$  inch steel pin at station 119+00.

THENCE South 67 degrees 02 minutes 16 seconds East for a distance of 797.52 feet along the south right-of-way line of highway 76 to a found aluminum cap LS 4154 at station 111+03.30.

THENCE North 00 degrees 56 minutes 02 seconds West for a distance of 1658.80 feet along the west line of said Section 19 to the west quarter corner being a found  $\frac{3}{4}$  inch rebar.

THENCE North 00 degrees 56 minutes 39 seconds West for a distance of 556.81 feet along the west line of said Section 19 to a point on the south line of San Manuel Airport lease.

THENCE North 56 degrees 09 minutes 30 seconds West for a distance of 47.31 feet along the south line of San Manuel Airport lease to a set  $\frac{1}{2}$  inch rebar.

THENCE along a curve to the left having a radius of 11535.71 feet, and an arc length of 1216.19 feet subtended by a cord of North 52 degrees 00 minutes 23 seconds West for a distance of 1215.61 feet along the south line of the San Manuel airport lease to a set  $\frac{1}{2}$  inch rebar.

THENCE North 33 degrees 50 minutes 30 seconds East for a distance of 1156.98 feet to a point.

THENCE South 56 degrees 09 minutes 30 seconds East for a distance of 9318.47 feet to a point on the north fence line of the Commodity Warehouse.

THENCE North 90 degrees 00 minutes 00 seconds East for a distance of 4960.97 feet to a point.

THENCE South 33 degrees 57 minutes 38 seconds East for a distance of 3504.07 feet to a point on a fence corner.

THENCE South 15 degrees 52 minutes 36 seconds West for a distance of 8527.39 feet to a set  $\frac{1}{2}$  inch rebar on the west right-of-way line of Highway 76.

THENCE South 00 degrees 00 minutes 00 seconds East for a distance of 4680.74 feet to a point on the south line of said Section 4.

THENCE South 89 degrees 54 minutes 01 seconds West for a distance of 1173.24 feet along the south line of said Section 4, to the point of beginning of the land described.

Together with and subject to covenants, easements, and restrictions of record.

Said property contains 5104.38 acres more or less.